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REMARKS

Claims 1 through 7, 9 through 13 and 16 through 19 were presented for examination. Claims 9 and 10 have been withdrawn from consideration. The instant amendment cancels claims 16 through 19 without prejudice. Thus, claims 1 through 7 and 11 through 13 are presented for consideration upon entry of the instant amendment, which is respectfully requested. Withdrawn claims 9 and 10 remain pending for rejoinder upon allowance of generic claim 1.

Claims 1 through 7, 11, and 13 were rejected under 35 U.S.C. §103(a) over U.S. Patent No. 2,575,835 to Pohle (Pohle) in view of U.S. Patent No. 4,374,344 to Misono et al. (Misono). Claim 12 was rejected under 35 U.S.C. §103(a) over Pohle in view of Misono in further view of U.S. Patent No. 5,717,290 to Schaffer (Schaffer).

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

It is respectfully submitted that the Office Action has not met any of the three required criteria for establishing a *prima facie* case of obviousness.

It is respectfully submitted that the proposed combination of Pohle and Misono fails to disclose or suggest all of the claim elements of claim 1.

Independent claim 1 requires "said flexurally rigid connection and said first and second sections are elastically deformable to brace the getter in said first section and said second section in said inner surface". Thus, claim 1 recites three elastically deformable members, namely the flexurally rigid connection, the first section, and the

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second section. This simple combination of three members are elastically deformable to brace the getter in the first section and to brace the second section in the inner surface.

It is respectfully submitted that Pohle discloses a gettering loop 19 secured to the outer end of finger 26 or secured to the skirt portion 25. See col. 2, lines 14-41. Similarly, Misono discloses a conductive spacer 7 that has one end secured to an electron gun structure 6 and the other end in contact with a conductive film 4. See col. 1, lines 40-43.

In contrast, claim 1 requires the getter to be braced in the first section and the second section to be braced in the inner surface. As such, the proposed combination of Pohle and Misono simply do not disclose or suggest the simple combination of three members that are elastically deformable for bracing as required by claim 1.

In addition, it is respectfully submitted that there is no reasonable expectation of success that the combination of Pohle and Misono would result in the bracing of claim 1.

Pohle and Misono do not disclose or suggest a getter that is braced in the first section and a second section that is braced in the inner surface by the elastically deformable nature of a flexurally rigid connection, a first section, and a second section. Rather, Pohle and Misono teach away from this construction by securing and, not, bracing as claimed.

Moreover, it is respectfully submitted that there is simply no motivation to combine Pohle and Misono in the manner suggested.

The Office Action acknowledges that Pohle does not disclose a flexurally rigid connection, but asserts that Misono discloses the claimed flexurally rigid connection. The Office Action asserts that:

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"As it would be beneficial to better control the deformation of the holding clip of Pohle, it would have been obvious to modify the holding clip of Pohle so as to have a flexurally rigid connection as taught by Misono". See the Final Office Action at page 3, lines 2-10.

Further, the Office Action reminded the Applicants that:

"In considering the disclosure of a reference, it is proper to take into account not only the specific teachings of the reference but also the inferences which one skilled in the art would reasonably expect to draw therefrom." Id.

Thus, the Office Action asserts that the nature of the problem itself (i.e., the need to better control deformation as inferred by one skilled in the art) is the source of the motivation to combine the flexurally rigid connection of Misono with the spring legs of Pohle.

In *Ruiz v. A.B. Chance Co.*, 357 F.3d 1270, 69 USPQ2d 1686 (Fed. Cir. 2004), the patent claimed underpinning a slumping building foundation using a screw anchor attached to the foundation by a metal bracket. One prior art reference taught a screw anchor with a concrete bracket, and a second prior art reference disclosed a pier anchor with a metal bracket. The court found motivation to combine the references to arrive at the claimed invention in the "nature of the problem to be solved" because each reference was directed "to precisely the same problem of underpinning slumping foundations." *Id.* at 1276, 69 USPQ2d at 1690.

In the instant Application, the cited references are directed to different problems.

Pohle is directed to centering a cathode-ray tube in an electron gun by securing (e.g., welding) the gettering loop secured to the outer end of finger 26 or secured to the skirt portion 25. See col. 2, lines 14-41. Misono is directed to a color picture tube having a conductive film having a mixture of electrically conductive material and frit glass. Here, the conductive film makes electrical contact with a conductive spacer. See col. 5, lines 13-25. Thus, Pohle is directed to centering, while Misono is directed to a film in contact with a spacer.

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It is respectfully submitted that Pohle and Misono are directed to different problems. Further, the problems resolved by Pohle and Misono are both unrelated to controlling deformation as inferred by the Office Action. As such, inferring the nature of the problem of control deformation from Pohle and Misono is clearly flawed and, thus, there is simply no motivation to combine the prior art in the manner suggested by the Office Action.

The Office Action merely asserts that Shaffer discloses a support wire with respect to the elements of claim 12 and, thus, acknowledges that Shaffer does not disclose or suggest claim 1.

For at least the reasons set forth above, claim 1, as well as claims 2 through 7 and 11 through 13 that depend therefrom, are believed to be in condition for allowance. Reconsideration and withdrawal of the rejections to claims 1 through 7 and 11 through 13 are respectfully requested.

In addition, rejoinder and allowance of withdrawn claims 9 and 10 are also respectfully requested since generic claim 1 is in condition for allowance.

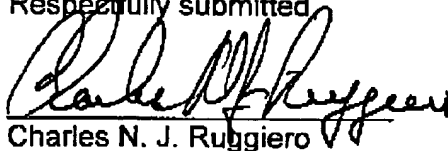
In view of the above, it is respectfully submitted that the present application is in condition for allowance. Such action is solicited.

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In the alternative, it is believed that the instant amendment places the present application in better condition for appeal by removing issues for appeal. Accordingly, entry and consideration of the instant amendment are respectfully requested.

If for any reason the Examiner feels that consultation with Applicants' attorney would be helpful in the advancement of the prosecution, the Examiner is invited to call the telephone number below.

Respectfully submitted



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